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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,635	04/15/2004	Ramin Abhari	2003B043B	9004

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EXAMINER
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WYROZEBSKI LEE, KATARZYNA I

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/825,635

**Applicant(s)**

ABHARI ET AL.

**Examiner**

Katarzyna Wyrozebski

**Art Unit**

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/7/04; 1/26/06; 5/16/058/10/04.</u> | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 20 is objected to because of the following informalities: The examiner request that the applicants clarify term "Soxhlet heptane".

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-44 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-62, 64-68 of copending Application No.

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10/10825,349 ('349). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following explanation.

Application '349 discloses polyolefin having exactly the same properties and components as well as composition utilizing such polymer as required by the claim of the present invention.

It would have been obvious to one having ordinary skill in the art that when practicing claims of present invention one would clearly arrive at claims of '349.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 1-44 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-83, 103, 109-117, 137, 171-185, 206, 220, 262, 310, 348 of copending Application No. 10/686,951 ('951). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following explanation.

Application '951 discloses polyolefin having the exactly same properties and components as well as composition utilizing such polymer as required by the claim of the present invention.

It would have been obvious to one having ordinary skill in the art that when practicing claims of present invention one would clearly arrive at claims of '951.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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5. Claims 1-44 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-73 of copending Application No. 10/825,348 ('348). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following explanation.

Application '348 discloses polyolefin having exactly the same properties and components as well as composition utilizing such polymer as required by the claim of the present invention. The composition is an adhesive composition.

It would have been obvious to one having ordinary skill in the art that when practicing claims of present invention one would clearly arrive at claims of '348.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. Claims 1-44 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-34,58-74, 81-107, 109-118 of copending Application No. 10/687,508 ('508). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following explanation.

Application '508 discloses polyolefin having exactly the same properties and components as well as composition utilizing such polymer as required by the claim of the present invention. The composition is an adhesive composition.

It would have been obvious to one having ordinary skill in the art that when practicing claims of present invention one would clearly arrive at claims of '508.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-34 are rejected under 35 U.S.C. 102(a) as being anticipated by KARANDINOS (US 2002/0007033).

KARANDINOS discloses composition for new hot melt adhesive comprising polyolefins. The properties of the polyolefins of KARANDINOS encompass the properties of the present invention. Specifically the properties include crystallinity of no more than 20% preferably no more than 15%; T<sub>g</sub> lower than -5°C, melt index measured at 190°C of 1-2000, melt index of at least 1000. Molecular weight in examples 3 and 4 of 25000 and 28000. M<sub>w</sub>/M<sub>n</sub> ratio in a range of 1.5-4.

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Additives include tackifiers in the amount of 1-25 wt %, flow improver of 1-20 wt %.

Other additives include antioxidants, crystallinity modifiers, solvents and the like.

Although the branching index has not been reported, the polymer of KARANDINOS is made by the same process as the polymer of the present invention, which process include use of metallocene catalyst or Ziegler-Natta chemistry. In further considerations, since the properties of the polymer as well as monomeric components are the same, the branching index is expected to be an inherent property.

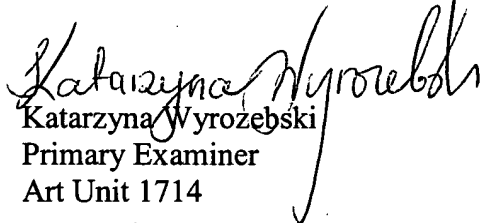
In the light of the above disclosure, the prior art of KARANDINOS anticipates claims rejected above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katarzyna Wyrozebski whose telephone number is (571) 272-1127. The examiner can normally be reached on Mon-Thurs 6:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Katarzyna Wyrozebski  
Primary Examiner  
Art Unit 1714

October 26, 2006